IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.2055 OF 1992

Mahanagar Telephone Nigam Ltd. ..Plaintiffs.

V/s.

Pethe Nihon Chemicals Ltd. ..Defendants.

Mr.H.Engineer i/b. B. Goverdhandas & Fozdar for Plaintiffs.

None for Defendants.

CORAM: A.M.KHANWILKAR,J

DATE : NOVEMBER 2, 2007.

P.C. :

1. None appears for the Defendants today when the matter is called out. Even on the last date of hearing no appearance was made on behalf of the Defendants.

2. This Suit is filed by the Plaintiffs for recovery of amount due and payable by the Defendants in relation to different telephone bills. The Defendants failed to pay the amount demanded by the Plaintiffs, as the Defendants contested the demand being excessive one. As the Defendants failed to pay the amount, the Plaintiffs have had no option but to institute the present Suit for recovery of the amount under the suit bills.

3. In the Written Statement filed by the Defendants, it is reiterated that they were disputing the claim of the Plaintiffs in relation to the suit telephone bills. In view of the stand taken on behalf of the Defendants, it necessarily follows that a dispute has been raised, which is squarely governed by provisions of Section 7B of the Indian Telegraphs Act, 1885. In such a case, reference of dispute to arbitration under Section 7B of the Act is imperative.

4. Taking overall view of the matter and having regard to the mandate of Section 7B of the Act, as expounded by the Apex Court in the case of **Telecom District Manager, Goa & Ors. vs. V.S.Dempo & Co. & Ors. reported in AIR 1996 SC 1545**, it is appropriate that the matter is referred to arbitration. The reference to arbitration is for determination of disputes under Section 7B of the Act, which is a statutory remedy.

5. The Central Government shall notify the arbitrator before whom the present dispute will be tried and decided in arbitration. The Plaintiffs to intimate competent Authority of the Central

Government to take immediate steps to notify the arbitrator in terms of Section 7B of the Act. Such notification shall be issued within eight weeks from today.

6. The arbitrator so appointed shall conclude the arbitration proceedings as expeditiously as possible and in any case, not later than six months from the date he enters upon arbitration or the parties are expected to make first appearances before him, whichever is earlier.

7. It is made clear that all issues raised in the present Suit at the instance of either side shall be considered on its own merits in accordance with law in the arbitration proceedings.

8. In view of the above order, the Suit is disposed of. Refund as per rules.

9. Counsel for the Plaintiffs to forthwith inform the Counsel for the Defendants as well as the Defendants about the order passed today.

(A.M.KHANWILKAR,J)